

**UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF MASSACHUSETTS**

Darron Bourque pro se
Plaintiff

-v-


Franklin County
Franklin County Sheriff, McDonald
Franklin County Sheriff's Department
Franklin County House of Corrections
Superintendent Byron
Deputy Superintendent Sheperd
Deputy Superintendent Hall
Deputy Superintendent Fitzpatrick
Franklin County House of Correction
Medical Department
Nurse Morningstar, Medical Administrator
Defendant's

CIVIL ACTION
NUMBER

04-30242-KPN

NOW COMES BEFORE, this Honorable Court the Plaintiff, Darron Bourque, pro se acting in pro se, praying this Honorable Court allows this action being brought forth be heard in this Honorable Court. The above named Defendant's have violated the Plaintiff's Civil Rights under the following Amendments.

The first (1st), Sixth (6th), Eighth (8th), and the Fourteenth (14th) Amendments to the Constitution of the United States. The annexed affidavit is in support of this pleading.

Respectfully Submitted,

Darron Bourque, pro se

PROCEDURAL HISTORY

1. The Plaintiff has submitted numerous grievances to no avail. They are never answered in the reference to the matters sought to be brought out here.

Statements of Indigence:

1. The Plaintiff has no money with which to prosecute this matter.
2. Due to the Plaintiffs having no funds to prosecute this matter, the Plaintiff seeks leave of the Court to proceed In Forma Pauperis.

Facts:

1. The Plaintiff swears and deposes that he is in fact Darron Bourque.
2. That he is incarcerated presently at the Franklin County House of Corrections
3. That the matters and complaints made here are to the best of his knowledge truthful.

COMPLAINTS

1. The Plaintiff is currently housed in what is called the top tier of the jail block at the Franklin House of Correction, which is to say that he is on the very highest tier.
2. The plumbing is so bad that it has in the past 3 days over flowed twice putting into his cell:

- a. Urine, feces, semen and many other disease carrying things, this is a reoccurring thing here.
 - b. A lot of the overflow is coming out of the “shower”; this makes for a very unsanitary environment to live in.
 - c. See Jackson-v-Duckworth, 955, Fzd 21,22 (7th Cir.); cells flooded with sewage and foul water were a “clear violation of the eighth (8th) amendment rights allowed inmate”.
 - d. The unsanitary conditions that are created also bring me in contact with the possibility of Hepatitis C, Hepatitis A, all kinds of Bacteria.
3. There are bugs crawling out from under the toilet and ants all over the place and this is the same place the inmates have to eat their meals.
 - a. The screens on the windows do not fit and I constantly have all kinds of bugs coming in to my cell.
4. After the overflowing of the sewage, there is a smell that I have to deal with for a week.
5. There are pipes hanging down all over the place with asbestos on them, which is a known cancer causing agent.
6. There are no screens and I am being bitten all the time. There are a great many spiders and I and others are getting infectious bites all the time.
7. I have at times had in my cell Mold and Fungus growing out of the walls. It was painted over and now the mold and fungus is growing out through the paint again.
8. As in Estelle-v-Gamble, 429 U.S. 97, 50 L. Ed. 2d 251, 97 S.Ct. 285 (1976), “deliberate indifference” to the serious medical needs of an

inmate constitute the wanton infliction of the unnecessary infliction of pain.

- a. The Franklin County House of Corrections has a hardly credible medical department.
 - b. The medical treatment at the facility is next to non existent.
9. I am constantly exposed to leaking and dripping pipes, which are covered in asbestos insulation causing the walkways to constantly be wet and hazardous.
 - a. There has been quite a few instances of inmates falling and hurting their selves because there is no way to get up into the beds.
10. There is no protection from inmates beating another inmate up, as there is no monitoring of the cell-blocks, due to the fact that there are no cameras present anywhere. Thus, there is no security.
 - a. If God forbid an inmate had a medical emergency there is no way that, anyone would know because there is no monitoring.
11. We have no manner of getting on and off our upper bunks and we had a man fall a little bit ago and break his leg. Due to the fact that they are double bunks with no access ladders.
12. The Law Library at the Franklin House of Corrections is totally inadequate, even given that the County has put in an attorney who can help he can only help with some things:
 - a. The attorney here cannot and will not help anyone with a Civil Matter, as he is a paid part of the County.
 - b. In having had discussions with him, he has stated that he can only do certain things.

- c. There are no Federal Books of any kind here for anyone to be able to adequately prepare any kind of a case.
13. The jail does not provide the inmates with even the bare necessities for hygiene.
14. I had a cavity in my tooth for almost two (2) weeks and the dentist instead of filling it wants to pull it, my teeth are perfect other than this on cavity which became absyssed and I was told by the dentist that I was fine..
15. County inmates here in Franklin County are mixed with sentenced inmates and with INS detainees. I am sentenced and should not be mixed with others.

SUMMATION

1. The need for basic sanitation is a fundamental human need. See Toussaint-v-McCarty, 597 supp. 1388, 1411, (N. D. Cal. 1984).
2. I and others are denied basic necessities for sanitation, such as, tooth brush, toothpaste, toilet paper (which if you use more than one roll a week they want you to buy your own), and a very small bar of soap to last a month.
3. There is nothing that any place that houses human-beings can do or say that can justify having anyone live in these types of conditions.

- a. The United States goes into other countries and tells them that they cannot allow people to live in these kinds of conditions, how can they do it to their own people?
4. The Plaintiff finds that he is being subjected to violations of basically every right that he has, and prays this court to take an action to assist him in correcting these violations.

RELIEF SOUGHT

1. The Plaintiff would pray this Court to cause the Franklin County House of Corrections to take immediate action on these issues.
2. The Plaintiff would seek in compensatory damages from the Defendant's an unknown amount which will be decided at a later time.
3. The Plaintiff will also seek Punitive Damages also to be decided at a later time.
4. Such further relief as this Court deems fair and just.

Respectfully Submitted,

Darron Bourque, pro se

JS 44
(Rev. 3/99)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Darron Bourque, prose

DEFENDANTSFranklin County Sheriff, &
House of Correction, et al.(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Franklin
(EXCEPT IN U.S. PLAINTIFF CASES)COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Franklin
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Darron Bourque, prose
160 Elm. St.
Greenfield, Ma. 01301

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | PTF | DEF | PTF | DEF |
|--|---|--|---|
| <input type="checkbox"/> Citizen of This State | <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| <input type="checkbox"/> Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | <input type="checkbox"/> Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| <input type="checkbox"/> Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | <input type="checkbox"/> Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/Credit Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Cold Food, Unsanitary Kitchen workers, no pest control, inadequate law library, no safety

42 U.S.C. § 1983 - sanitation, unsafe environment, poor medical

VII. REQUESTED IN COMPLAINT:CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NO**VIII. RELATED CASE(S) IF ANY** (See instructions):JUDGE NONE

DOCKET NUMBER

DATE

11-23-04

SIGNATURE OF ATTORNEY OF RECORD

Darron Bourque

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Darron Bourque, pro se
-v- Franklin County Sheriff and House of Correction, et al

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.

*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

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4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐

NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐

NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐

NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐

NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒

NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐

Central Division ☐

Western Division ☒

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐

Central Division ☐

Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐

NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Darron Bourque, pro se

ADDRESS 160 Elm Street, Greenfield, Ma. 01301

TELEPHONE NO. _____